

**TOWN OF ROCKY HILL
PLANNING AND ZONING COMMISSION
MEETING OF NOVEMBER 19, 2014**

1. CALL TO ORDER

Chairman Desai called the Wednesday, November 19, 2014, Special Meeting to order at 6:30 p.m. in the Town Council Room, Rocky Hill Town Hall, 761 Old Main Street, Rocky Hill, Connecticut.

Present: Dimple Desai, Chairman
Giuseppe Aglieco, Commissioner

Alternates: William O'Sullivan
Mike Casasanta

Also: Kimberley A. Ricci, Dir. Planning & Building/Asst. ZEO
Morris Borea, Town Attorney
Eileen A. Knapp, Recording Secretary

2. PUBLIC

Ms. Krista Mariner of 58 Farms Village Road addressed the Commission. She recommended that the requirement that any medical marijuana, dispensaries and production facilities be at least 200' away from a public school, church, a charitable institution, a hospital, or a library be increased to 1,500'. She asked the Commission to consider requiring applicants of a mixed use development that includes multi-family housing include as part of their application a school impact study. She also suggested requiring these types of developments to use all public utilities. She would also like to see synergy between the components of mixed-use developments. She asked if the State requires 20% of multifamily housing to be affordable.

Town Manager Guy Scaife addressed the Commission to discuss the agenda item regarding the Remand of zoning appeal, re: Great Meadows Conservation Trust, Inc. v. Planning and Zoning Commission of the Town of Rocky Hill. The Town needs to take care of the problems with the landfill and in order to do this they need to have access to it. He believes the work done is only maintenance of the existing access road that has been there for decades and it is not considered "filling in the wetlands".

Mr. Barry Goldberg of Regulatory Land Use Consulting addressed the Commission. He feels the public should be allowed to speak on agenda items as they come up. He said he does believe the work done on the roadway by Meadow Properties is considering filling in the

wetlands' but the previous Commission decided that millings acceptable as fill. Regarding the multifamily housing issue, he hopes the Commission gives in depth thought when considering if Rocky Hill needs additional multifamily housing as they already have more than other towns in Connecticut. He has seen the draft and approves of it but feels it needs more work.

Mr. Tom Regan, Attorney with Brown, Rudnick LLP, addressed the Commission representing the new Owners of the Ames property. Regarding the proposed regulations for multifamily housing, they are concerned about some of the concrete thresholds that are being suggested, which may make development of their property very difficult.

Ms. Mariner noted that the Bylaws allow for public comment on agenda items.

3. ADOPT THE AGENDA

A MOTION was made by Commissioner O'Sullivan to add to the Consent Agenda approval of the Minutes and Working Notes from October 28, 2014. Seconded by Commissioner Aglieco. All were in favor, **MOTION CARRIED UNANIMOUSLY.**

A MOTION was made by Commissioner Casasanta to adopt the Agenda. Seconded by Commissioner Aglieco. All were in favor, **MOTION CARRIED UNANIMOUSLY.**

4. CONSENT AGENDA

A MOTION was made by Commissioner Casasanta to adopt the Consent Agenda as amended. Seconded by Commissioner O'Sullivan. All were in favor, **MOTION CARRIED UNANIMOUSLY.** The following items were approved on the Consent Agenda:

- A. Minutes and Working Notes from October 15, 2014**
- B. Minutes and Working Notes from October 28, 2014**

5. AGENDA ITEMS

A. Remand of zoning appeal, re: Great Meadows Conservation Trust, Inc. v. Planning and Zoning Commission of the Town of Rocky Hill. Clarification of applicability of Section 5.2.5.A of the Rocky Hill Zoning Regulations to the subject Meadow Properties Project;

Ms. Ricci read a memo she prepared regarding what is being asked of this Commission. Basically they need to determine if the millings placed on site is considered "fill" and if so, was it placed in a flood plain overlay district.

Attorney Brian Smith, representing the Great Meadows Conservation Trust said they believe the decision of the Commission in 2010 was erroneous. He does have additional evidence to present asked if that would be allowed.

Attorney Louis George, representing the Property Owner said they object to new evidence and testimony being presented and that any decision should be based on the existing record. Town Attorney Borea noted that it is up to the Commission to decide whether or not to take additional evidence but he said he would advise the Commission not to take the new evidence.

The Commission had a lengthy discussion about whether or not to admit new evidence. This discussion included a recap of the claims by each Attorney. Atty. Smith claimed according to the Regulations 5.2.5 a., “there shall be no filling of land and soil excavation or dumping of any material in a flood plain overlay district”. The application was for “filling of land” and the Commission approved a “Fill Permit” and it is clear that this area is a flood plain. Any permit for placing fill in a flood plain should go through the Zoning Board of Appeals.

Atty. Louis George said the area of the drive in question is approximately 225’. The remainder is not in the flood plain. He said this area did not change in elevation with the addition of the fill material. Road maintenance, including repairing and adding up to 3” of material in a flood plain is not considered filling of land and is allowed as of right. Both Attorneys agreed that the area in question is in fact in the flood plain zone. They disagreed on whether the adding of 3” of material constituted fill and Attorney Smith said several documents referenced the addition of more than 3” of fill. Atty. George said they have someone who can clarify what was put down, but the Commission needed to determine if they would allow new evidence or not.

Chairman Desai said he doesn’t believe the repair of the road in this area constitutes filling if it doesn’t exceed the three inches because it is not affecting the flood capacity in the area. Commissioner Casasanta said he doesn’t think they need additional information introduced in order to make a determination. Commissioner Aglieco said they did remove material and add fill to a flood plain area and he doesn’t feel this is allowed by the Town’s Regulations. Commissioner O’Sullivan said he would like to see copies of the items in the record that they have been referencing before making the decision of whether or not to admit new evidence.

A MOTION was made by Commissioner Casasanta for a short recess. Seconded by Commissioner O’Sullivan. All were in favor, MOTION CARRIED UNANIMOUSLY.

A MOTION was made by Commissioner Aglieco to come out of recess. Seconded by Commissioner O’Sullivan. All were in favor, MOTION CARRIED UNANIMOUSLY.

Mr. Angelo Ortizi said he oversaw the work on the road and all they did was lay down fabric and put down 3” of material. Atty. Borea again noted that it is up to the Commission to decide if this constitutes filling in the flood plain zone and to determine what the approval of the application allowed Meadow Properties to do.

The Commission agreed by consensus to make their decision on the record as presented, without admitting any new evidence. Commissioner O’Sullivan said he doesn’t believe that approval of this permit materially changed the elevation, composition or layout of the roadway. If the intent of this project was to restore the road to its prior condition he doesn’t think the Regulations would prohibit that. Commissioner Casasanta agreed with Commission O’Sullivan. Chairman Desai said there was no increase in the elevation of the road and the conditions remained the

same after the work was done, which would not affect the welfare, health and public safety of the community.

A MOTION was made by Commissioner O’Sullivan to respond to the remand order by advising the Court that Section 5.2.5a of the Rocky Hill Regulations does not prohibit activities in a Flood Plain Overlay District that are limited to restoring or improving roadways that are already in place. Seconded by Commissioner Casasanta. All were in favor, MOTION CARRIED UNANIMOUSLY.

B. Review, and discuss possible draft regulations addressing medical marijuana , dispensaries and production facilities;

Mrs. Ricci noted that in April of last year the Town Council put forth a 12 month moratorium on the establishment of medical marijuana production facilities and dispensaries. She presented a draft of possible regulations for the Commission’s consideration. The Regulations include definitions, approval of the use only as a Special Permit Use in Business Park Districts and Regional Commercial Districts. Mr. Ricci said many communities handle marijuana dispensaries the same as pharmacies and marijuana produces the same as manufacturers. The draft Regulations proposed include distance requirements in order to regulate location of these types of facilities. Facilities must be at least 200’ away from schools, parks, recreational facilities, places of worship or the boundary of a residential district. Products shall not be visible for the exterior of the facility and dispensaries must be locked facilities accessed only by people who are given a prescription for this product.

There was a question of whether a pharmacy like CVS or Walgreens could sell medical marijuana as long as that part of the building was a locked facility or if it had to be a standalone facility. Mrs. Ricci said she would get clarification on that. Chairman Desai suggested looking at the Regulations of Towns that already have these types of facilities. He also suggested adding limitations related to the signage at these facilities and having the Town Attorney review the draft Regulations to assure that they are not in conflict with the State Statutes.

A MOTION was made by Commissioner O’Sullivan to table the discussion of possible draft regulations addressing medical marijuana, dispensaries and production facilities. Seconded by Commissioner Casasanta. All were in favor, MOTION CARRIED UNANIMOUSLY.

C. Review, and discuss possible draft regulations addressing multifamily housing as a component of a mixed use development;

These draft Regulations includes definitions for:

- Affordable Housing
- Apartment
- Apartment Building
- Duplex Residence
- Mixed Use
- Mixed Use Building
- Mixed Use Development
- Multi-Family Housing

Commissioner Zarrilli submitted comments regarding mixed uses in one building. He suggested taking a percentage of the square footage in a building and assigning it to residential uses. Commissioner O'Sullivan also submitted a memorandum in 2012 regarding mixed uses and multifamily housing. Mrs. Ricci pointed out areas that are being proposed to have mixed use developments. The Commission still needs to decide on setbacks, and shared or reduced parking regulations. Commissioner O'Sullivan said he submitted a definition of mixed use that the Commission may want to consider. The Commission also received a copy of form based codes to use as a reference. These types of Regulations can be very complex and detailed.

A MOTION was made by Commissioner O'Sullivan to table the discussion of possible draft regulations addressing multifamily housing as a component of a mixed use development. Seconded by Commissioner Casasanta. All were in favor, MOTION CARRIED UNANIMOUSLY.

6. ANY OTHER BUSINESS

A. Review and Action, Draft 2015 Meeting Schedule

A MOTION was made by Commissioner O'Sullivan to adopt the 2015 Planning and Zoning Meeting Schedule as presented. Seconded by Commissioner Casasanta. All were in favor, MOTION CARRIED UNANIMOUSLY.

7. COMMUNICATIONS

- Environmental Land Use Restriction for 914 Cromwell Avenue – this order states that due to contamination in the ground the warehouse cannot be raised.
- The Town Manager is concerned about conduct at meetings and how meetings are run. Mrs. Ricci said she will be handing out information on these types of topics in the future as reference materials for use by the Commission. There are also seminars available for Commissioners who are interested.

8. APPROVE BILLS

A. Planimetrics Invoice # 1045– Plan of Conservation and Development Update

A MOTION was made by Commissioner O'Sullivan to approve Planimetrics Invoice # 1045– Plan of Conservation and Development Update. Seconded by Commissioner Aglieco. All were in favor, MOTION CARRIED UNANIMOUSLY.

9. ADJOURN

A MOTION was made by Commissioner O’Sullivan to adjourn the meeting at 10:15 p.m. Seconded by Commissioner Casasanta. All were in favor, MOTION CARRIED UNANIMOUSLY.

Meeting adjourned at 10:15 p.m.

Respectfully submitted,

Eileen A. Knapp
Recording Secretary